

AMENDED IN ASSEMBLY MARCH 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 893

Introduced by Assembly Member Daly

February 22, 2013

~~An act to amend Section 6006.3 of the Revenue and Taxation Code, relating to taxation. An act to add Sections 17239 and 24356.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 893, as amended, Daly. ~~Sales and use taxes: lease: definition. Income taxes: deductions: Mello-Roos.~~

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions in computing income that is subject to tax under those laws.

This bill would allow a deduction, under both of those laws, of amounts paid under the Mello-Roos Community Facilities Act of 1982.

This bill would take effect immediately as a tax levy.

~~The Sales and Use Tax Law defines a “lease” for purposes of application of that law.~~

~~This bill would make technical, nonsubstantive changes to that definition.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17239 is added to the Revenue and*
2 *Taxation Code, to read:*

3 17239. For each taxable year beginning on or after January
4 1, 2014, there shall be allowed as a deduction the amount paid by
5 the taxpayer pursuant to the Mello-Roos Community Facilities Act
6 of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1
7 of Division 2 of Title 5 of the Government Code).

8 SEC. 2. Section 24356.9 is added to the Revenue and Taxation
9 Code, to read:

10 24356.9. For each taxable year beginning on or after January
11 1, 2014, there shall be allowed as a deduction the amount paid by
12 the taxpayer pursuant to the Mello-Roos Community Facilities Act
13 of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1
14 of Division 2 of Title 5 of the Government Code).

15 SEC. 3. This act provides for a tax levy within the meaning of
16 Article IV of the Constitution and shall go into immediate effect.

17 ~~SECTION 1. Section 6006.3 of the Revenue and Taxation~~
18 ~~Code is amended to read:~~

19 ~~6006.3. "Lease" includes rental, hire and license. "Lease" does~~
20 ~~not include a use of tangible personal property for less than one~~
21 ~~day for a charge of less than twenty dollars (\$20) when the~~
22 ~~privilege to use the property is restricted to its use on the premises~~
23 ~~or at a business location of the grantor of the privilege. If a contract~~
24 ~~designated as a lease binds the lessee for a fixed term and the lessee~~
25 ~~is to obtain title at the end of the term upon the completion of the~~
26 ~~required payment, or has the option at that time to purchase the~~
27 ~~property for a nominal amount, the contract shall be regarded as~~
28 ~~a sale under a security agreement from its inception and not as a~~
29 ~~lease. For a contract designated as a lease with any state or local~~
30 ~~governmental body, or any agency or instrumentality thereof, the~~
31 ~~lessee shall be treated as bound for a fixed term notwithstanding~~
32 ~~any right of the lessee to terminate the contract in the event that~~
33 ~~sufficient funds are not appropriated to pay amounts due under the~~
34 ~~contract.~~